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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHELE GRAY, MAKAI GRAY (minor),

Plaintiffs

v.

UNITED STATES DEPARTMENT OF
JUSTICE,

Defendant

Case No.: 2:19-cv-00854-APG-BNW

**Order Denying Motion for Entry of
Default and Motion for Default Judgment**

[ECF Nos. 20, 21]

The plaintiffs move for entry of default and default judgment against the defendant United States Department of Justice (DoJ). ECF Nos. 20, 21. A default judgment cannot be entered until the defendant is first in default. Fed. R. Civ. P. 55(b). The DoJ is not in default because the time for it to respond has not expired. Federal Rule of Civil Procedure 12(a)(2) states that an agency of the United States must respond to a complaint within 60 days of being served. Even if the plaintiffs have now properly served the DoJ, that appears to have occurred no earlier than February 3, 2020. *See* ECF No. 20 at 13 (certified mail receipt from U.S. Attorneys' Office in Las Vegas). The DoJ would thus have until April 3, 2020 to respond. Therefore, the motions for default and default judgment are premature.

I THEREFORE ORDER that the plaintiffs' motions for entry of default (ECF No. 20) and default judgment (ECF No. 21) are denied.

DATED this 10th day of March, 2020.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE